

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**GERALD RUHNOW and CONNIE
RUHNOW,**

Plaintiffs,

v.

LANE HEARD TRUCKING, LLC., et al,

Defendants.

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CIVIL ACTION NO. 2:05 CV 527-F

**DEFENDANT LANE HEARD TRUCKING'S
MOTION TO STRIKE PLAINTIFFS' MOTION IN LIMINE**

Defendant Lane Heard Trucking, LLC ("Lane Heard Trucking") requests that the Court strike Plaintiffs' Motion in Limine [Doc. 89], served on January 25, 2007, as untimely. In support of this motion, Lane Heard Trucking avers as follows:

1. Pursuant to this Court's Scheduling Order [Doc. 21] Section 13 entered in this case, all motions in limine were to be fully briefed and submitted "on or before 15 days prior to the trial date unless said time is shortened by the Court on motion of either party."

2. Motions in limine were due to be filed on January 16, 2007. Lane Heard Trucking filed and served its motions in limine in a timely fashion.

3. No motion was made by plaintiffs on January 16, 2007, or even now has been made, to shorten the time for motions in limine.

4. The documents that plaintiffs now complain about were produced to plaintiffs' counsel at the beginning of the litigation. In fact, the accident reports were produced by plaintiffs in their initial disclosures. (See portions of Plaintiffs' Initial Disclosures, attached hereto as Exhibit A). Further, the Traffic Homicide Investigation Report was produced to the

Plaintiff no later than July, 2006. (See Lane Heard Trucking's Motion for Summary Judgment Exhibit C [Doc. 50]; *see also* portions of Northland Insurance Company's Initial Disclosures, attached hereto as Exhibit B).

5. Further, Lane Heard Trucking disclosed its potential use of these exhibits at trial in a timely manner on December 18, 2006. (Letter dated December 18, 2006 disclosing exhibits and witnesses attached hereto as Exhibit C).

6. Lane Heard Trucking has been prejudiced by this untimely filing as it does not have sufficient opportunity to conduct an orderly review and analysis of the complained of exhibits in less than two business days before trial.

For the reasons set forth above, Plaintiffs' Motion in Limine [Doc. 89] is due to stricken and Lane Heard Trucking's Motion to Strike is due to be granted.

Respectfully submitted,

/s/ Katie L. Hammett
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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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